

TRANS  
14079

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-198546

DATE: June 19, 1980

MATTER OF: Broken Lance Enterprises, Inc.--Reconsideration

*[Request for Reconsideration of Untimely Protest]*  
DIGEST:

1. Prior decision summarily dismissing protest as untimely filed is affirmed where protester's assertion that alleged solicitation improprieties did not become apparent until after bid opening is contradicted by initial protest submission.
2. When protester's initial submission indicates that protest is untimely, GAO will render decision without obtaining agency report.

Broken Lance Enterprises, Inc. (Broken Lance), requests reconsideration of our decision in Broken Lance Enterprises, Inc., B-198546, May 9, 1980, 80-1 CPD       , which dismissed Broken Lance's protest under invitation for bids (IFB) No. DAAD05-08-B-0013. In that protest, and in its request for reconsideration, Broken Lance argues that the IFB improperly provided for award to be made to the low responsive aggregate bidder for certain dining facilities services for five different buildings. Broken Lance believes that this bidding procedure "failed to adequately protect against 'low ball' bids that possibly could have failed to properly account for the minimum staffing requirements called for in the solicitation."

Our Office dismissed the earlier protest as untimely because it concerned an alleged impropriety in the IFB which was apparent prior to bid opening, but it was not filed until after bid opening. Broken Lance objects to the summary form of that decision and requests a determination addressing the substantive questions raised in its protest. Broken Lance also asserts that "[t]he improprieties raised by the solicitation in this matter did not become apparent until after the bids were opened." This assertion is contradicted by the protester's own initial submission.

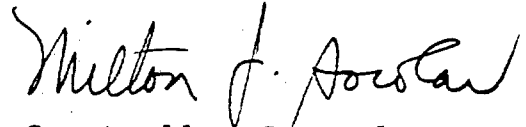
112604 - 811046

Broken Lance quoted the IFB sections stating the minimum staffing requirements for the various buildings and providing for award to the low, responsive, responsible aggregate bidder. Broken Lance went on to contend that the quoted IFB bidding system "invites the submission of 'low ball' bids from contractors who, once awarded the contract and installed on the base, would be forced to meet the quoted price by cutting back on the hours mandated by the contract." (Emphasis supplied.) The protester also emphasized that its protest was "based upon the inadequate and improper bidding instructions for this project and is not directed to, nor intended to reflect in any way upon, any of the contractors who submitted bids in response to these instructions or upon any of the bids themselves." Thus, the initial protest clearly indicates that the alleged impropriety was apparent on the face of the IFB; no new illuminating information or clarification became available after bid opening.

Broken Lance's objection to our summary form of dismissal is based on its belief that, in order to obtain a better understanding of the Government's bidding procedures, it should receive "a determination which addresses the substantive questions raised by its protest, rather than its procedural aspects." However, where a protester's initial submission indicates that the protest is untimely, is without legal merit, or states a basis for protest which is otherwise not for consideration by this Office, we may render a decision or dismiss the matter without obtaining a report from the agency. F&H Manufacturing Corporation, B-195954, September 28, 1979, 79-2 CPD 231; Lewis Corporation, B-194213, April 2, 1979, 79-1 CPD 228; Murphy-Anderson Visual Concepts--Reconsideration, B-191850, July 31, 1978, 78-2 CPD 79. In this instance, it was clear from Broken Lance's initial submission that its protest was untimely filed under our Bid Protest Procedures, 4 C.F.R. § 20.2(b) (1) (1980), and no errors of fact or law demonstrating otherwise have been alleged or shown. Further, the issue raised by Broken Lance is not for consideration under our exception to the timeliness rule where the

matter is significant to procurement practices or procedures or good cause for the untimely filing is shown. 4 C.F.R. § 20.2(c) (1980).

We affirm our prior decision.

A handwritten signature in dark ink, appearing to read "Milton J. Aorolan". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

Acting Comptroller General  
of the United States